

REMARKS

Applicant respectfully requests reconsideration and allowance of all of the claims of the application. The status of the claims is as follows:

- Claims 1-8 are currently pending.
- Claims 1, 4, 6 and 8 are amended herein.

Support for Amendments

Support for the amendments to claims 1 and 8 is found in the specification, as published, at least at [0023] and [0097] and other locations.

Support for the amendments to claims 4 and 6 is found in the specification, at least at FIG. 5 and associated discussion.

The amendments submitted herein do not introduce any new matter.

Allowed Claims

The Office Action indicates that claim 7 is allowable. Applicant would like to thank the Examiner for allowing claim 7. This claim has not been amended herein, and therefore remains in condition for allowance.

Claims 4 and 6 Recite Statutory Subject Matter under § 101

Claims 4 and 6 stand rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. For the sole purpose of expediting prosecution, and without commenting on the propriety of the Office's rejections, Applicant herein amends claims 4 and 6 as shown above.

Applicant thanks the Examiner for the guidelines on page 4 of the Office Action mailed 10/29/2010. Applicant respectfully submits that these amendments render the § 101 rejection moot.

Cited Documents

The following documents have been applied to reject one or more claims of the Application:

- **Legall:** Legall, U.S. Patent No. 6,005,565
- **Proehl:** Proehl, U.S. Patent No. 6,532,589
- **Maze:** Maze, U.S. Patent No. 6,216,264
- **Coden:** Coden, U.S. Patent No. 5,873,080
- **Bedard:** Bedard, U.S. Patent No. 5,801,747
- **Beery:** Beery, U.S. Patent No. 6,215,531

Claims 1 and 4-6 are Non-Obvious over Legall in View of Proehl, Maze and Coden

Claims 1 and 4-6 stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Legall in view of Proehl, Maze and Coden. Applicant respectfully traverses the rejection.

Independent Claim 1

Claim 1, as amended herein, recites, in part:

operating the unified query function as **a background query**, the operating comprising:

periodically running the unified query function;

identifying a program according to the unified query;

displaying an icon on a screen, for view by the user, after identifying the program; and

recording the identified program if the user does not activate the icon prior to a viewing time of the identified program.

Accordingly, claim 1 has been amended to recite elements recited by claim 7, found to be allowable.

The Legall document discusses background searching for programs in an electronic programming guide (EPG) (see Legall at column 4 last lines and top of column 5). However, Legall fails to teach or suggest "displaying an icon on a screen, for view by the user, after identifying the program; and recording the identified program if the user does not activate the icon prior to a viewing time of the identified program," as recited by claim 1, as amended.

The Proehl, Maze and Coden documents fail to disclose, teach or suggest the use of background processes in an EPG.

The Office has not previously suggested that the above-recited passage is taught or suggested by any document of record. Additionally, the above-recited passage is part of claim 7, which was found to be in allowable condition. For at least the reasons presented herein, the combination of Legall and Proehl, Maze and Coden does not

teach or suggest all of the features of claim 1. Accordingly, Applicant respectfully requests that the Office withdraw the 103 rejection of claim 1.

Dependent Claims 4-6

Claims 4-6 ultimately depend from independent claim 1. As discussed above, claim 1 is allowable over the cited documents. Therefore, claims 4-6 are also allowable over the cited documents of record for at least their dependency from an allowable base claim, and also for the additional features that each recites.

Accordingly, Applicant respectfully requests that the Office withdraw the 103 rejection of claims 4-6.

Claims 2 and 3 are Non-Obvious over Legall, Proehl, Maze and Coden Further in View of Bedard

Claims 2 and 3 stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Legall, Proehl, Maze and Coden further in view of Bedard. Applicant respectfully requests reconsideration in light of the amendments presented herein.

Dependent Claims 2 and 3

Claims 2 and 3 ultimately depend from independent claim 1. As discussed above, claim 1 is allowable over the combination of Legall, Proehl, Maze and Coden. The Bedard document is cited for its alleged teaching of (1) the ranking channels returned by an EPG, and (2) "a threshold of time," that a channel must be watched to become credited with being tuned-in. However, Bedard fails to remedy the deficiencies

of Legall, Proehl, Maze and Coden as noted above with regard to independent claim 1. Therefore, claims 2 and 3 are also allowable over the cited documents of record for at least their dependency from an allowable base claim, and also for the additional features that each recites.

Accordingly, Applicant respectfully requests that the Office withdraw the 103 rejection of claims 2 and 3.

Claim 8 is Non-Obvious over Legall, Proehl, Maze and Coden Further in View of Beery

Claim 8 stands rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Legall, Proehl, Maze and Coden further in view of Beery. Applicant respectfully requests reconsideration in light of the amendments presented herein.

Independent Claim 8

Claim 8, as amended herein, recites, in part:

a unified query function configured to combine queries into a unified query, the combining being performed by a Boolean AND or OR function, the unified query function also configured to operate the unified plural queries as a **background query**, the operating comprising:

periodically running the unified query function;

identifying a program according to the unified query;

**displaying an icon on a screen, for view by the user,
after identifying the program; and**

**recording the identified program if the user does not
activate the icon prior to a viewing time of the identified
program;**

The amendment to claim 8 overcomes the rejection to claim 8 for at least the reasons that the amendment to claim 1 overcomes the rejection to claim 1. Accordingly, the remarks from above are incorporated herein with respect to claim 8.

In rejecting claim 8, the Office suggested that it "likewise analyzed" (*i.e.*, rejected similarly to claim 1) according to Legall, Proehl, Maze and Coden, with the addition of Beery. As discussed above, at least in view of the amendments, claim 1 is allowable over the combination of Legall, Proehl, Maze and Coden. Additionally, at least in view of the amendments, claim 8 is allowable over the combination of Legall, Proehl, Maze, Coden and Beery.

The Beery reference was additionally added in making out the rejection of claim 8, but was not specifically referenced. Applicant notes that Beery discloses a 10-key device. However, Applicant respectfully submits that Beery fails to teach or suggest the elements related to background searching recited by claim 8, as amended.

Consequently, the combination of Legall, Proehl, Maze and Coden, and Beery does not teach or suggest at least this element of claim 8.

As noted above with respect to claim 1, the Office has not suggested that the documents of record disclosed the above-recited claim amendments. Accordingly, and for at least the reasons presented herein, the combination of Legall, Proehl, Maze and Coden, and Beery does not teach or suggest all of the features of claim 8. Accordingly, Applicant respectfully requests that the Office withdraw the 103 rejection of claim 8.

Conclusion

For at least the foregoing reasons, all pending claims are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the application.

If any issues remain that would prevent allowance of this application, **Applicant requests that the Examiner contact the undersigned representative before issuing a subsequent Action.**

Respectfully Submitted,

Lee & Hayes, PLLC
Representative for Applicant

/David S. Thompson 37954/

Dated: 29 March 2011

David S. Thompson
(davidt@leehayes.com; 509-944-4735)
Registration No. 37954

Kayla D. Brant
Registration No. 46,576